



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,253	07/22/2003	Lowell L. Winger	03-0781 1496.00317	7358
24319	7590	07/19/2007		
LSI CORPORATION 1621 BARBER LANE MS: D-106 MILPITAS, CA 95035			EXAMINER RAO, ANAND SHASHIKANT	
			ART UNIT 2621	PAPER NUMBER
			MAIL DATE 07/19/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/624,253

Applicant(s)

WINGER ET AL.

Examiner

Andy S. Rao

Art Unit

2621

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 June 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-24.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☒ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Andy S. Rao
Primary Examiner
Art Unit: 2621

Continuation of 3. NOTE: See Examiner's attachment entitled "Response to Submitted Affidavit".

Response to Submitted Affidavit

1. The Affidavit filed on 6/29/07 under 37 CFR 1.131 has been considered but is ineffective to overcome the Prakasam '329 reference.
2. In particular, the Examiner notes that in the Declaration accompanying the Affidavit, the inventors of the instant invention only discussed the claimed features of three embodiments (Declaration of 6/29/07: pages 1-2, paragraphs 2-4), which correspond to subject matter as in currently pending claims 1, 9, and 13. However, the Examiner notes that the Declaration accompanying the Affidavit fails to list the subject matter of the embodiment of independent claim 14, and subject matter of dependent claims 2-8, 10-12, 15-24, and as such, entry of this Affidavit would only overcome the rejection of Prakasam '329 as applied to claims 1, 9, and 13, but not of the non-listed claims. The fact the Affidavit fails to address the complete scope of the claims as currently listed, but only applies the claims as listed on the accompanying Declaration, means that the submission of 6/29/07 is ineffective, since it would not overcome the rejection of all the pending claims. Re-opening prosecution, based on the entry of said Affidavit, for the partial set of claims would require further search and consideration for those claims, be considered new issue, and would not place the application in a condition for allowance. The Examiner would suggest a more substantive Declaration where all the claimed subject matter of the current application is sworn behind in order to render the Affidavit of 6/29/07 sufficiently effective.
3. Also, with regards the remarks concerning the Applicant's interpretation of the new grounds of rejection as applied in the Final Office Action is incorrectly (Request for Reconsideration of 6/29/07: page 11, lines 1-23). The new grounds of rejection is presented with

Art Unit: 2621

regards to newly presented claims 21-24, and not with originally presented claims 1-20 (Final Office Action of 5/04/07: page 5, paragraph 6, lines 1-3: "...with respect to newly added claims 21-24..."). The defense of Prakasam '329 in response to an Applicant initiated challenge is not a new grounds of rejection against originally presented claims 1-20.

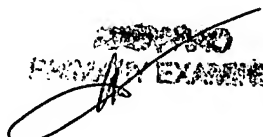
Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy S. Rao whose telephone number is (571)-272-7337. The examiner can normally be reached on Monday-Friday 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571)-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Andy S. Rao
Primary Examiner
Art Unit 2621


2007-04-10
PAIR EXAMINED

Application/Control Number: 10/624,253

Page 4

Art Unit: 2621

asr

July 13, 2007